

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARANDA LYNN O'DONNELL, et al.,)	
)	
Plaintiffs,)	Case No. 4:16-cv-01414
)	(Consolidated Class Action)
v.)	The Honorable Lee H. Rosenthal
)	U.S. District Judge
HARRIS COUNTY, TEXAS, et al.,)	
)	
Defendants.)	
)	

Notice of Compliance

On February 23, 2018, the Fifth Circuit set forth what was required to remedy the Equal Protection and Due Process violations identified by this Court. *ODonnell v. Harris Cnty., Tex.*, 882 F.3d 528 (5th Cir. 2018). The Fifth Circuit's opinion on rehearing did not change the relevant constitutional analysis. *ODonnell v. Harris Cnty., Tex.*, 892 F.3d 147 (5th Cir. 2018).

The Fifth Circuit held:

the equitable remedy necessary to cure the constitutional infirmities arising under both clauses is the same: the County must implement the constitutionally-necessary procedures to engage in a case-by-case evaluation of a given arrestee's circumstances, taking into account the various factors required by Texas state law (only one of which is ability to pay). These procedures are: notice, an opportunity to be heard and submit evidence within 48 hours of arrest, and a reasoned decision by an impartial decision-maker.

Id. at 165. In addition, for those unable to pay the bail at the individualized assessment of bail, "an adversarial bail review hearing" must be provided. *Id.*

Defendants are in full compliance with the Fifth Circuit's requirements. In fact, Defendants are providing more procedural protections than required.

The central focus is on the 15.17 hearing before the Hearing Officers, where the first individualized assessment of bail occurs. These hearings have changed since the preliminary injunction hearing in March of 2017. The changes made to the 15.17 hearing, processes, and procedures are *permanent* changes. (*Compare* ECF No. 423, p. 3) (noting “the County has not made clear that it would adopt, and continue to implement, the procedural protections necessary to prevent further constitutional violations absent an injunction”).

The County provides notice that the “misdemeanor defendant’s state constitutional right to be bailable by sufficient sureties is at stake.” Currently, Defendants, through Pretrial Services, provide the required notice prior to the hearing. The Public Defender also discusses with the accused their rights.

Defendants provide each arrestee “an opportunity to be heard and submit evidence within 48 hours of arrest.” As the Court is aware, Harris County voluntarily began funding Public Defenders at the 15.17 hearings in July of 2017. This is a formal change in policy that Harris County intends to continue funding. Moreover, Defendants recently provided numerous video examples of recent hearings that unquestionably demonstrate that the accused’s position is heard in these hearings. (ECF No. 426, Ex. C.)

The Hearing Officers provide “a reasoned decision” in each case, as well as explain their “case-specific” reasons for the bail setting.

Finally, the County Criminal Court at Law Judges provide an opportunity for an adversarial bail review hearing. Though the Fifth Circuit did not specify a time for this hearing, the County Criminal Court at Law Judges provide the opportunity for this hearing the next business day.

Defendants are in full compliance with the law. No live controversy exists as to Plaintiffs' Due Process and Equal Protection claims.

Respectfully submitted:
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Certificate of Service

I certify that on the 24th day of July, 2018, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Southern District of Texas, using the electronic case filing system of the court.

/s/ Mike Stafford
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